

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PATRICIA CUMMINGS,

Plaintiff,

Docket No.  
19-cv-07723 (CM) (OTW)

-against-

THE CITY OF NEW YORK; NEW YORK CITY DEPARTMENT OF EDUCATION; CITY OF NEW YORK OFFICE OF SPECIAL INVESTIGATIONS; NYC MAYOR BILL de BLASIO; GIULIA COX; COURTNEY WARE; BEN CHAPMAN; NEW YORK DAILY NEWS; DR. ANDRE PERRY; THE HECHINGER REPORT a/k/a HECHINGER INSTITUTE ON EDUCATION AND THE MEDIA; LENARD LARRY McKELVEY a/k/a CHARLAMAGNE THA GOD; WWPR-FM (105.1 MHZ); iHEARTMEDIA; CLEAR CHANNEL COMMUNICATIONS, INC.; NEW YORK STATE SENATOR, KEVIN S. PARKER; COUNCILMAN, JUMAANE D. WILLIAMS; COUNCILMAN, DANIEL DROMM; COALITION OF EDUCATIONAL JUSTICE; ANGELMARTINEZ; NATASHA CAPERS, and  
“JOHN DOE AND JANE DOE # 1-100” said names being fictitious, it being the intent of Plaintiff to designate any and all individuals, officers, members, agents, servants, and/or employees of the aforementioned agencies owing a duty of care to Plaintiff, individually and jointly and severally,

Defendants.  
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**DECLARATION OF THOMAS F. LIOTTI IN OPPOSITION TO  
DEFENDANT, LENARD LARRY McKELVEY a/k/a CHARLAMAGNE THA GOD’s  
MOTION TO DISMISS THE COMPLAINT PURSUANT**

**THOMAS F. LIOTTI, ESQ.**, hereby declares pursuant to 29 U.S.C §1746:

1. I am the principal attorney with the Law Offices of Thomas F. Liotti, LLC, attorneys for the Plaintiff, PATRICIA CUMMINGS (“Plaintiff”), and I am admitted to practice in this Court. As such, I am fully familiar with the facts and circumstances of this matter.
2. I submit this Declaration together with the Plaintiff’s Memorandum of Law in Opposition to the Defendant, Lenard Larry McKelvey a/k/a *Charlamagne Tha God*’s (Defendant Charlamagne or

Defendant), Rule 12 (b)(6) motion to dismiss the Complaint in its entirety and with prejudice; and for such other and further relief as this Court deems to be just and proper.

3. I have attached hereto the following Exhibits, which are referenced in the accompanying Memorandum of Law in Opposition:

- Exhibit A: Redacted Copy of Office of Special Investigations Investigative Report (OSI) dated July 24, 2018
- Exhibit B: Plaintiff's rebuttal correspondence addressed to Community Superintendent Maribel Torres-Hulla dated October 5, 2018;
- Exhibit C: Plaintiff's Verified Complaint dated May 15, 2019

4. The Plaintiff was a probationary New York City Public School Teacher at The William W. Niles School - Middle School 118, Community School District 10, in Bronx County, New York. She seeks damages related inter alia to the infliction of defamation, defamation *per se*, reverse discrimination, denial of due process, severe emotional, psychological, and physical distress, loss of reputation, loss of income, and expenses upon her, and the erroneous termination of her employment as a New York City school teacher.

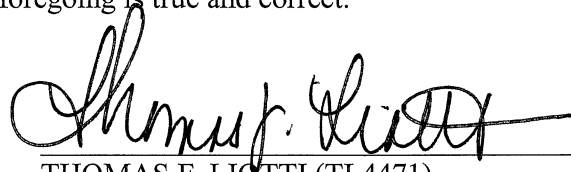
5. As result of what was fallaciously reported concerning an alleged complaint made by a parent of a student regarding a lesson taught by the Plaintiff in her social studies class on the Middle Passage, the Plaintiff subsequently and unwillingly became the subject of a front page false accusations her of being a "racist" and "making black students lie face down on the floor of her class, and asking them '[H]ow does it feel to be a slave?'" As a result, this fabricated and erroneous set of "facts" was picked up by the media worldwide and transmitted to various news outlets and appeared online and in media all over the world.

6. The arguments proffered by the Plaintiff in the accompanying Memorandum of Law sufficiently dispute the Defendant, Lenard Larry McKelvey a/k/a *Charlamagne Tha God*'s (Defendant Charlamagne or Defendant) unsophisticated attempt to argue *inter alia*, that the subject broadcast is non-actionable opinion, as well as his attempt to hide behind the First Amendment. Thus, Plaintiff presents herein a sufficient basis for a denial of the Defendant Charlamagne's Motion to Dismiss.

7. Based on the foregoing the relief requested by the Defendant Charlamagne should be denied in its entirety; and such other and further relief should be granted to the Plaintiff, as to this Court may seem just and proper.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: Garden City, New York  
September 27, 2019



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THOMAS F. LIOTTI (TL4471)